

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STANISLAV LEVIN,

X
Civ. Act. No.: 11 CV 5252 (RJS)

Plaintiff,

-against-

CREDIT SUISSE INC., METROPOLITAN LIFE
INSURANCE COMPANY, and AON HEWITT, INC.

**DECLARATION OF
MICHAEL H. BERNSTEIN**

DOCUMENT
ELECTRONICALLY FILED

Defendants.

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MICHAEL H. BERNSTEIN, being duly sworn, deposes and states:

1. I am a member of the firm of Sedgwick LLP, attorneys for the Defendant Metropolitan Life Insurance Company (“MetLife”). As such, I am fully familiar with the facts and circumstances in this matter.
2. I submit this Declaration and the exhibits annexed hereto in support of MetLife’s motion for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing plaintiff Stanislav Levin’s (“Levin”) Second Amended Complaint in its entirety, and for such other and further relief as this Court may deem just and proper.
3. On July 28, 2011, Levin filed his Summons and Complaint in this Court. A true and correct copy of Levin’s Complaint is attached hereto as “**Exhibit F**.”
4. By Order dated October 24, 2011, Hon. Richard J. Sullivan, U.S.D.J., granted Levin leave to file an Amended Complaint by November 7, 2011. (Doc. No. 16).
5. On November 7, 2011, Levin filed his Amended Complaint in this matter. A true and correct copy of Levin’s Amended Complaint is attached hereto as “**Exhibit G**.”

6. By Order dated January 24, 2012, Judge Sullivan granted Levin leave to file a Second Amended Complaint. (Doc. No. 23).

7. On January 25, 2012, Levin filed his Second Amended Complaint alleging several claims against MetLife, including the following: improper denial of benefits under section 502(a)(1)(B) 29 U.S.C. §1132(a)(1)(B) of Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §1001, *et seq.* and ERISA §502(a)(3); breach of fiduciary duty under 29 U.S.C. §§1104 and 1105, 29 U.S.C. §1132(c)(1)(B) and 29 U.S.C. §1022(a); and for bad faith. A true and correct copy of Levin’s Second Amended Complaint is attached hereto as “**Exhibit H.**”

8. By letter dated February 6, 2012, MetLife requested leave from the Court to move to dismiss Levin’s Second Amended Complaint. A true and correct copy of the letter to Judge Sullivan from MetLife dated February 6, 2012 is attached hereto as “**Exhibit I.**”

9. On February 8, 2012, Judge Sullivan granted MetLife leave to file its motion to dismiss Levin’s Second Amended Complaint pursuant to Fed. R. Civ. P. Rule 12(b)(6), and set forth a briefing schedule for the filing of MetLife’s motion to dismiss. (Doc. No. 25). Pursuant to Judge Sullivan’s briefing schedule, MetLife is required to file its motion to dismiss no later than March 9, 2012. (*Id.*). Accordingly, MetLife’s motion is timely filed in accord with the Court’s Order

Dated: New York, New York
March 9, 2012

I declare under penalty of perjury that the foregoing is true and correct.

s/
MICHAEL H. BERNSTEIN (MB 0579)

CERTIFICATE OF SERVICE

I, Matthew P. Mazzola, hereby certify and affirm that a true and correct copy of the attached **Declaration of Michael H. Bernstein** and a copy of the referenced documents in the statement was served **via ECF and Regular Mail** on March 9, 2012, upon the following:

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s/

MATTHEW P. MAZZOLA (MM-7427)